

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 22-cr-20321

v.

Hon. Laurie J. Michelson

JOSHUA MOTLEY,

Defendant.

/

**JOSHUA MOTLEY'S MOTION TO REVOKE
DETENTION ORDER AND REQUEST FOR HEARING**

Joshua Motley, by undersigned counsel, moves this Court pursuant to 18 U.S.C. § 3145(b) for an order to revoke the detention order issued September 8, 2022, by United States Magistrate Judge Jonathan Grey, and release Mr. Motley in accordance with those conditions set forth in 18 U.S.C. 3142(b) or (c), as deemed appropriate by this Court. To facilitate this Court's *de novo* review of the order of detention, Mr. Motley

respectfully requests a hearing before this Court on the merits of his motion. A supporting memorandum of law accompanies this motion.

Respectfully submitted,

**FEDERAL COMMUNITY DEFENDER
EASTERN DISTRICT OF MICHIGAN**

s/Elizabeth Young

Elizabeth Young (P76842)
Attorney for Joshua Motley
613 Abbott Street, Suite 500
Detroit, Michigan 48226
(313) 967-5849
E-mail: elizabeth_young@fd.org

Dated: September 13, 2022

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 22-cr-20321

v.

Hon. Laurie J. Michelson

JOSHUA MOTLEY,

Defendant.

/

**MEMORANDUM OF LAW SUPPORTING MOTION TO REVOKE
DETENTION ORDER AND REQUEST FOR HEARING**

The government has accused Mr. Motley and six other individuals of engaging in a cell phone fraud scheme from approximately June 2017 to September 2019. Mr. Motley is charged with (1) conspiracy to commit wire fraud, 18 U.S.C. § 1349, and (2) two counts of aggravated identity theft, 18 U.S.C. § 1028(a)(1). The alleged loss amount is approximately 28 million dollars. There are no allegations that Mr. Motley threatened or used force or violence in furtherance of the alleged conspiracy. Mr. Motley has no assaultive or drug-related convictions. At least four of Mr. Motley's co-defendants have been released on bond: Emmanuel Luter, Joseph Ingram, Dominique Barnes, and Delano Bush.

Mr. Motley is a loving father to his five-year-old daughter who just started kindergarten. Joshua and his daughter's mother, Asia Cunningham, have a supportive relationship in which they share the responsibility of raising their daughter. Ms. Cunningham particularly relies on Mr. Motley to drive their daughter home from school during the day while she's working. Mr. Motley spends most evenings and nights with Ms. Cunningham at her apartment in Novi. He also lives part-time in Detroit at his father's house. He is a Michigan native, having lived in Southeast Michigan for nearly his entire life. Mr. Motley is supported by family and friends who all live in Southeast Michigan. He has no passport, enhanced license, foreign contacts, or financial means to travel.

At the detention hearing, the Magistrate Judge detained Mr. Motley based, in part, on Mr. Motley's record of non-appearance. According to the Pretrial Services Report, Mr. Motley has three prior instances of failing to appear to a court date. He addresses each in turn:

1. 8/9/13: Failure to appear to a court date in Montgomery County, PA. Mr. Motley was unable to make this court date because he was serving a 60-day sentence in Oakland County which began on 7/10/13. PTS Rpt. Pg. 5.

2. 4/24/18: Failure to appear to a sentencing for an offense charged in 2013 in Milan, OH. Mr. Motley's originally scheduled sentencing date in this case was 6/26/2014, however, this date was adjourned to 4/24/2018 due to Mr. Motley serving time on another case. Mr. Motley did not receive notice of the adjourned sentencing date following his release from prison four years later. On 5/3/21 this case was dismissed. PTS Rpt. Pg. 6.
3. 8/26/21: Failure to appear to a probation violation hearing in Glendale, CA. PTS Rpt. Pg. 7. According to Mr. Motley's probation officer, V. Iniguez, Mr. Motley's term of probation began on 9/13/17 and was set to expire on 9/12/21. Officer Iniguez advised defense counsel that Motley's only alleged violation was for failing to complete 30 days of community service, but that he was otherwise compliant with his terms of probation. Iniguez further advised that Mr. Motley had informed him during the probationary period that Mr. Motley had completed his community service at a church in Michigan. Mr. Motley did not receive notice of the 8/26/21 court date.

The instances cited above involve only out of state cases. Notably, Mr. Motley has never failed to appear to a court date in Michigan. This is also the first time Mr. Motley has been charged in federal court. He appreciates the seriousness of this case

and is eager to defend himself in court. He is physically and mentally healthy and does not have any substance abuse issues. Mr. Motley's strong ties to Michigan, stable residence, employment opportunities (described more fully below), and family support all demonstrate that Mr. Motley is not a serious flight risk. To the extent this Court may still have concerns about Mr. Motley's likelihood of appearance, Mr. Motley proposes that this court impose electronic monitoring and home confinement as a condition of his release.

Mr. Motley is a self-employed business owner with two businesses involving clothing sales and printing services. There are no reports of fraud related to either of his businesses. To the extent this Court may be concerned with Mr. Motley operating his businesses, Mr. Motley has alternative employment options available. For one, Mr. Motley is welcome to immediately begin working at a screen printing and wrapping company called Dacodest Collection on Greenfield Road in Oak Park, Michigan. This business has been owned and operated by Alonzo Smiley for more than a decade. Mr. Motley would be working full time as a laborer. Additionally, Mr. Motley is young, physically healthy, and highly employable.

Additionally, two reliable individuals have volunteered to serve as third-party custodians for Mr. Motley. First, Ms. Cunningham is the mother of Mr. Motley's only child and is highly motivated to keep Mr. Motley on the right path for the sake of their

daughter. Ms. Cunningham has no criminal history or outstanding warrants, and she is employed full time at Blue Cross Blue Shield of Michigan as a grievance and appeals coordinator. Ms. Cunningham has lived at the same apartment in Novi for the past five years. She and Mr. Motley have known each other since 2013 and continue to have a great relationship. Ms. Cunningham works from home and understands and is willing to take on the responsibility of helping supervise Mr. Motley.

Alternatively, Mr. Motley's father, Darrell Motley, can also serve as a third-party custodian. Darrell has stable residence in Detroit, no criminal history, and is a retired UAW International representative. At the detention hearing, Pretrial Services found Darrell unsuitable as a third-party custodian based on Darrell having two outstanding traffic warrants from 2019. Following the detention hearing, Darrell drove to Saginaw and cleared his warrants.

Conclusion

There are conditions of release that will reasonably assure Mr. Motley's appearance in court and the safety of the community. In addition to electronic monitoring, Mr. Motley would be amenable to conditions of release including:

- Home confinement with travel outside of the home for purposes of finding a job, going to work, driving his daughter to/from work, doctor's appointments, and attorney visits;

- No internet use without monitoring by third-party custodian;
- No new lines of credit without permission from Pretrial Services;
- Maintain full-time employment;
- Report to pretrial services regularly;
- Clear all outstanding warrants; and,
- Any other terms and conditions this Court deems just.

Because this is a non-violent case, Mr. Motley has no assaultive or drug-related history, he has a job lined up, his entire family including his daughter all live in Michigan, and there are viable third-party custodians available, Mr. Motley asks this Court to revoke the detention order and release him on bond with conditions.

Respectfully submitted,

**FEDERAL COMMUNITY DEFENDER
EASTERN DISTRICT OF MICHIGAN**

s/Elizabeth Young
Elizabeth Young (P76842)
Attorney for Joshua Motley
613 Abbott Street, Suite 500
Detroit, Michigan 48226
(313) 967-5849
E-mail: elizabeth_young@fd.org

Dated: September 13, 2022

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 22-cr-20321

v.

Hon. Laurie J. Michelson

JOSHUA MOTLEY,

Defendant.

/

CERTIFICATE OF SERVICE

I, hereby certify that on September 13, 2022, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Ryan A. Particka
Assistant United States Attorney
United States Attorney's Office
211 W. Fort Street, Suite 200
Detroit, Michigan 48226

**FEDERAL COMMUNITY DEFENDER
EASTERN DISTRICT OF MICHIGAN**

s/Elizabeth A. Young
ELIZABETH A. YOUNG (P76842)
Attorney for Joshua Motley
613 Abbott Street, Suite 500
Detroit, Michigan 48226
(313) 967-5849
E-mail: elizabeth_young@fd.org

Dated: September 13, 2022